

EXHIBIT 12

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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TALECRIS BIOTHERAPEUTICS,)
INC., and BAYER HEALTHCARE,)
LLC,)

Plaintiff,)

vs.)

C.A. Case No.
05-349-GMS

**CERTIFIED
COPY**

BAXTER INTERNATIONAL, INC.,)
and BAXTER HEALTHCARE)
CORPORATION,)

Defendant.)

BAXTER HEALTHCARE CORPORATION)
Counterclaimant,)

vs.)

CONFIDENTIAL

TALECRIS BIOTHERAPEUTICS,)
INC., and BAYER HEALTHCARE,)
LLC,)

Counterdefendants.)

Pages 1 through 190, inclusive.

DEPOSITION OF JAMES GIBLIN

HIGHLY CONFIDENTIAL, UNDER PROTECTIVE ORDER

Tuesday, August 1, 2006

REPORTED BY: MARYANN H. VALENOTI, RPR, CSR #11266

U.S. LEGAL

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1 Coordinating Committee was at Miles in 1994? 12:12:15

2 A. It lists a group of people that apparently 12:12:31
3 formed this committee. I don't recognize most of 12:12:34
4 the names. Some of them I do. 12:12:37

5 Q. Do you see a B. Alonso listed as the first 12:12:41
6 person in the to IgCC list of people? 12:12:45

7 A. Yeah, this looks like an alphabetical 12:12:54
8 listing. 12:12:56

9 Q. Do you believe that's the same Bill Alonso 12:12:57
10 who is the inventor on the '191 patent? 12:12:59

11 A. It's likely, yes. 12:13:03

12 Q. Are there any other Alonsos in which you 12:13:04
13 knew about at Miles in 1994 in Clayton? 12:13:10

14 A. No. 12:13:15

15 Q. Do you know what the purpose of the 12:13:15
16 Immunoglobulin Coordinating Committee was in 1994? 12:13:17

17 A. I don't know specifically, but typically 12:13:26
18 these committees would be formed to discuss product 12:13:30
19 improvement, solve problems that might be 12:13:32
20 associated with products. You would typically 12:13:39
21 convene a committee task force and they would meet 12:13:41
22 as long as it was necessary to resolve certain 12:13:46
23 issues relating to certain products. 12:13:49

24 MS. SPAETH: I'd like to mark as Baxter 12:14:13
25 Exhibit 20, a multipage document again on Miles 12:14:16

1 letterhead, this time dated February 12, 1992, 12:14:20
2 subject, PMT Project Status Report, and it bears 12:14:25
3 Production Numbers TAL 038427 through TAL 038443. 12:14:29
4 (Whereupon, Exhibit 20 was marked for 12:14:37
5 identification.) 12:14:37
6 BY MS. SPAETH: 12:14:37
7 Q. There is a tag in the upper left-hand 12:14:55
8 corner that looks like a routing list that includes 12:14:56
9 Bill Alonso and Susan Trukawinski and then there 12:15:02
10 is -- this memo says it's from D. Hammond. Do you 12:15:07
11 believe that is the same Mr. Hammond or Dr. Hammond 12:15:11
12 you were referring to earlier? 12:15:14
13 A. That's correct. 12:15:16
14 Q. And it says it's to B. Morris. Who is B. 12:15:17
15 Morris? 12:15:20
16 A. He was the Plant Manager of the Clayton 12:15:21
17 plant at some point in the early '90s, I guess. 12:15:24
18 Q. And do you see how it says cc and then an 12:15:30
19 acronym PCC? 12:15:33
20 A. Yes. 12:15:37
21 Q. And then underneath that acronym it lists 12:15:37
22 a lot of other people? 12:15:40
23 A. Yes. 12:15:42
24 Q. Do you know what the acronym PCC stands 12:15:42
25 for or stood for at the time? 12:15:45

1 under a Protective Order. 14:30:00

2 MS. SPAETH: I'd like to mark for the 14:30:07

3 record two exhibits, which may indeed be a single 14:30:09

4 document, I cannot tell from the document 14:30:12

5 production. The first I'd like to mark as Baxter 14:30:15

6 Exhibit 24, two-page document bearing Production 14:30:20

7 Numbers TAL 038915 through TAL 038916. That will 14:30:24

8 be Baxter Exhibit 24. 14:30:31

9 (Whereupon, Exhibit 24 was marked for 14:30:34

10 identification.) 14:30:34

11 MS. SPAETH: And as Baxter Exhibit 25, I'd 14:30:35

12 like to mark the document bearing Production 14:30:38

13 Numbers TAL 038917 and TAL -- through TAL 038934. 14:30:40

14 (Whereupon, Exhibit 25 was marked for 14:30:50

15 identification.) 14:30:50

16 MS. SPAETH: I have a question for counsel 14:31:24

17 from their document production, can you tell if 14:31:25

18 these were together as a single report? It appears 14:31:29

19 that it might be, even though the separate page has 14:31:33

20 an interim date given the subject line says, of 14:31:36

21 Baxter Exhibit 24 -- let me identify it for you and 14:31:44

22 then I'll ask the question. Baxter Exhibit 24 is a 14:31:47

23 two-page document dated August 3, 1993, that bears 14:31:51

24 the subject line PMT Project Status Report 14:31:56

25 May/June 1993. It is a two-page document. Then 14:31:59

1 what we've marked as Baxter Exhibit 25 has as its 14:32:07
2 top line PMT Status Report May/June 1993. 14:32:11

3 Is it your understanding -- I'm now asking 14:32:17
4 counsel, is it your understanding that this report 14:32:20
5 is actually the attachment to the August 3, 1993, 14:32:23
6 memo? 14:32:27

7 MR. BOVE: And my answer is I simply don't 14:32:28
8 know. They were produced as they were found in the 14:32:32
9 ordinary course of business. 14:32:35

10 MS. SPAETH: Yes, but they weren't 14:32:36
11 stapled. Because of the electronic documents, it's 14:32:39
12 not like the old-fashioned production where you 14:32:43
13 would staple them together, I would ask you to 14:32:46
14 please clarify because this is not the only one 14:32:48
15 type of this document. We have to have an 14:32:51
16 understanding or else we'll have twice as many 14:32:53
17 exhibit numbers. 14:32:57

18 MR. BOVE: We will check on that for you. 14:32:58
19 BY MS. SPAETH: 14:32:59

20 Q. Mr. Giblin, would you please turn to Page 14:33:00
21 TAL 038920 of Baxter Exhibit 25. 14:33:05

22 A. Okay, 920. 14:33:22

23 Q. Do you see how there is reflected on this 14:33:29
24 page information that says it is a summary of 100 14:33:32
25 CH50 values from IGIV's produced by variations of 14:33:36

1 A. I don't know. 14:49:06

2 Q. Did you ever discuss with Mr. Alonso if 14:49:10
3 the idea that elevated ACA levels were always 14:49:17
4 detected at sterile bulk stage? 14:49:22

5 MR. BOVE: I'm going to have to instruct 14:49:24
6 the witness not to answer that. That's a very 14:49:26
7 specific request for communication between the 14:49:28
8 lawyer and the inventor. 14:49:32

9 BY MS. SPAETH: 14:49:33

10 Q. Mr. Giblin, did you request to see or did 14:49:37
11 you somehow see all of the experimental data done 14:49:41
12 between 1993 and the filing date of this patent in 14:49:45
13 September 1995 to see for yourself if this 14:49:49
14 statement that elevated ACA levels were always 14:49:53
15 detected at the sterile bulk stage was true? 14:49:56

16 A. I would have no question to doubt it. 14:50:04

17 MS. SPAETH: Let's take a break for a 14:50:31
18 minute. 14:50:32

19 MR. BOVE: Okay. 14:50:33

20 THE VIDEOGRAPHER: The time is 2:50 and we 14:50:34
21 are off the record. 14:50:35

22 (Whereupon, a recess is taken.) 14:50:40

23 (Whereupon, Exhibit 26 was marked for 14:57:46
24 identification.) 14:57:46

25 THE VIDEOGRAPHER: Time is 2:57 and we are 14:57:47